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June 18, 1998

EX PARTE OR LATE FILED

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

Ex Parte: GTOC Tariff FCC No. 1 - Transmittal 1148, CC Docket 98-79

Dear Ms. Salas,

On Wednesday, June 17, 1998, representatives of GTE met with Jane Jackson, Joe Bender, David Hunt, Vienna Jordan and Joi Nolen of the Common Carrier Bureau to discuss GTE's ADSL service offering submitted under Transmittal No. 1148. We discussed the positions filed in GTE's Reply on May 28, 1998. The attached document was used in the discussions.

If you have any questions regarding this matter, please call me at (202) 463-5293.

Sincerely,

W. Scott Randolph
Director - Regulatory Matters

cc: Jane Jackson
Joe Bender
David Hunt
Vienna Jordan
Joi Nolen

rec'd

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GTE TRANSMITTAL 1148

DSL SOLUTIONS - ADSL SERVICE

THE APPROVAL OF GTE'S DSL SOLUTIONS OFFERING WILL SERVE THE PUBLIC INTEREST BY ACCELERATING DEPLOYMENT OF ADVANCED TELECOMMUNICATIONS SERVICES

GTE's ADSL offering fully comports with Congressional and FCC policy to promote advanced capabilities.

The public interest is best served by allowing GTE to offer ADSL Service to the public.

The message from Congress is clear:

"[I]t shall be the policy of the United States to encourage the provision of new technologies and services to the public." Furthermore, "any person or party...who opposes new technology or service...shall have the burden to demonstrate that such proposal is inconsistent with the public interest." 47 U.S.C. § 157(a).

GTE has received 1300 inquiries into its ADSL service, along with expressions of interest from more than 200 ISPs and major interexchange carriers.

**THE FILING OF GTE'S DSL SOLUTIONS TARIFF WITH THE FCC IS
JURISDICTIONALLY PROPER AND IS FULLY CONSISTENT WITH THE
FCC'S ACCESS CHARGE RULES**

The Internet is a global network of networks - the vast majority of traffic originated and terminated over GTE's DSL offering will be jurisdictionally interstate.

The Commission has repeatedly confirmed the jurisdictional status of enhanced or information services such as Internet offerings:

- OPP Working Papers
- FCC Report to Congress
- Access Reform Decisions (MTS and WATS Market)
- Memory Call Decisions

GTE's ADSL service plainly is an access service under definitions in the Commission's Rules and in the Act.

GTE's ADSL service is clearly an access offering designed mainly for ISPs, which will use the service to provide high speed access between the ISP customer's premises and the information service provider's server.

Under 47 C.F.R. § 69.2(b), "access service" is defined as including "services and facilities provided for the origination or termination of any interstate or foreign telecommunication." The definition therefore rests on the nature of the transmission, not the identity of the purchaser or the existence of an IXC POP.

Under longstanding FCC precedent, a dedicated access offering such as GTE's ADSL service is considered jurisdictionally interstate (10% rule).

**THE FILING OF GTE'S DSL SOLUTIONS TARIFF WITH THE FCC IS
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GTE's ADSL offering in no way constricts the continuing ability of any ISP to obtain interstate access using state-tariffed business lines – which is all that the ISP exemption requires.

The FCC preserved the ability of ISPs to obtain interstate access using state tariffed business lines rather than by paying interstate switched access charges.

It did not hold that such entities were immune from access charges if they choose to access the interstate network through other means.

State decisions on reciprocal compensation are irrelevant to the jurisdictional classification of GTE's ADSL service.

ADSL is a dedicated offering, not comparable to dial up access using standard business/residential lines.

The tariffing of ADSL at the interstate level will not adversely affect resolution of NOI on Internet usage.

In fact, it meets one of the NOI's stated objectives in encouraging alternative means of accessing ISPs.

DSL is simply an attractive new option and not a replacement for existing dial-up arrangements.

GTE HAS FULLY SUPPORTED ITS RATES FOR ADSL SERVICE

The FCC's VDT and OVS proceedings are not relevant for ADSL services.

With VDT, LECs were proposing to invest significant amounts to construct new networks, reflecting combined use of fiber and coaxial facilities, including plant connecting subscriber premises and LEC offices.

In contrast, with ADSL, GTE would be providing service over existing copper loops, with the added investment only in transmission facilities and related equipment.

Allocating a greater portion of loop costs to the ADSL service would only force subscribers to pay a higher, noncompetitive rate for their ADSL service.

The rates proposed for GTE's ADSL service, reflect the incremental cost of providing ADSL over existing copper loops.

GTE has accounted for common costs as well as the costs of conditioning loops.

At the other extreme, there is no basis for forcing GTE to lower its rates by adopting unrealistically long depreciation schedule for DSL-related equipment.

Rapidly changing technology demands the use of rational depreciation schedules such as those used in the pricing of GTE's ADSL service.

THE ADSL ACCESS OFFERING REFLECTS EFFICIENT USE OF GTE'S FRAME SERVICE

GTE's tariff provides for seamless transport using frame relay because that is what GTE was asked to do by its ISP customers.

GTE will not prevent an ISP customer from providing its own connection to the ADSL connection point and is considering filing additional connection options.

GTE'S ADSL OFFERING IS CONSISTENT WITH THE INTERCONNECTION OBLIGATIONS IMPOSED UNDER SECTION 251(C) OF THE COMMUNICATIONS ACT

GTE has provided and will continue to provide access to unbundled ADSL-conditioned loops to requesting telecommunications carriers in accordance with the requirements of Section 251(c)(3).

CLECs can also purchase resold local exchange services in combination with GTE's ADSL service to market combined service packages to end users.

The FCC has already concluded that access services are not retail services within the meaning of Section 251(c)(4) of the Act, notwithstanding that end user customers can purchase services from access tariffs.

THE ADSL TARIFF IS CONSISTENT WITH THE COMMISSION'S EXPANDED INTERCONNECTION ORDERS

No FCC rule requires GTE to immediately provide for expanded interconnection to ADSL access services.

As MCI states in its pleading, expanded interconnection tariffs must be filed within 45 days of a bona fide request for such access.

GTE has received no such request.

THE ADSL ACCESS OFFERING DOES NOT UNLAWFULLY RESTRICT CUSTOMERS' ABILITY TO USE CPE FROM OTHER SOURCES

The tariff does not require that a modem be purchased from GTE, only that such modems be compatible with those used in GTE's central offices.

GTE HAS FULLY COMPLIED WITH SECTION 251(C)(5) DISCLOSURE OBLIGATIONS

Over a year ago, GTE fully disclosed all relevant technical information regarding the network interface necessary for transmission and routing of services over network facilities and any changes that would affect the interoperability with those facilities in accordance with Section 251(c)(5).

THE TARIFF IS COMPLETE AND UNAMBIGUOUS

GTE has clearly provided specific information regarding ADSL service and its provisioning characteristics in order to inform customers whether ADSL is technically feasible on customer's loops.

GTE's obligations under the Act, as well as other sections of the tariff, properly govern the provision of ADSL service: provision of service in a timely and nondiscriminatory manner, service quality standards including outage credit and notification requirements, installation and maintenance provisions, and customer billing.